

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.319 of 2018

and C.M.P.No.8164 of 2018

V.Sangeetha

... Petitioner

Vs.

C.Premnath

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.11 of 2018 pending on the file of the Sub Court, Cheyyar and transfer the same to the file of the Family Court, Chengalpattu.

For Petitioner : Mr.K.S.Arumugam

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.11 of 2018 pending on the file of the Sub Court, Cheyyar and transfer the same to the file of the Family Court, Chengalpattu.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 09.07.2014. After marriage, both were residing in the matrimonial home at Japthikaranai Village, Thiruvannamalai District. In the wed-lock a male child was born on 26.04.2015. Due to difference of opinion, both the petitioner and respondent are living separately. Earlier, the respondent filed H.M.O.P.No.8 of 2017 for restitution of conjugal rights and the said H.M.O.P was dismissed as withdrawn on 21.08.2017. Again the respondent filed H.M.O.P.No.11 of 2018 before the Sub Court, Cheyyar for restitution of conjugal rights.

3.According to the petitioner, she is residing at a village near Chengalpattu and it will be very difficult for her to travel from her village to Cheyyar to attend the Court proceedings. In the circumstances, the petitioner has filed the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.11 of 2018 pending on the file of the Sub Court, Cheyyar to the file of the Family Court, Chengalpattu. It is the contention of the learned counsel for the petitioner that if

H.M.O.P.No.11 of 2018 is transferred to Family Court, Chengalpattu, it will be convenient for both the petitioner and respondent to attend the Court proceedings.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice has been served on the respondent and his name is printed in the cause list, there is no representation for him either in person or through counsel.

5.Considering the above contention of the learned counsel for the petitioner and well settled judicial pronouncement of the Hon'ble Supreme Court in the Judgments reported in 2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta] and AIR 2002 SC 396 [Sumita Singh Vs. Kumar Sanjay and another], the convenience of the wife must be given preference in the matrimonial proceedings. Further, as per the provisions of the Hindu Marriage Act, place of residence of wife must be taken into account.

6.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.11 of 2018 is ordered to be withdrawn from the file of the Sub Court, Cheyyar and transferred to the file of the Family Court, Chengalpattu. The learned Subordinate Judge, Cheyyar, is directed to transmit all the records pertaining to H.M.O.P.No.11 of 2018 to the file of the Sub Court, Chengalpattu, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gsa

To

1.The Subordinate Judge, Cheyyar.

2.The Judge, Family Court, Chengalpattu.

+1 cc to Mr.K.S.Arumugam Advocate sr 35152

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